

**FILED**

NOV 30 2007

**Board of Vocational Nursing  
and Psychiatric Technicians**

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7  
8 **BEFORE THE**  
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. VN-2004-415

12 **AGNES MAMONEE SUMO**  
1777 Sugar Loaf Mountain Court  
13 Antioch, CA 94509

**A C C U S A T I O N**

14 Vocational Nurse License No. 193920

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this  
20 Accusation solely in her official capacity as the Executive Officer of the Board of Vocational  
21 Nursing and Psychiatric Technicians, Department of Consumer Affairs.

22 2. On or about December 21, 2000, the Board of Vocational Nursing and  
23 Psychiatric Technicians issued Vocational Nurse License Number 193920 to Agnes Mamonee  
24 Sumo (Respondent). The Vocational Nurse License was in full force and effect at all times  
25 relevant to the charges brought herein and will expire on December 31, 2008, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Vocational Nursing and  
28 Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the

1 following laws. All section references are to the Business and Professions Code unless otherwise  
2 indicated.

3 4. Section 2875 of the Business and Professions Code (Code) provides, in  
4 pertinent part, that the Board may discipline the holder of a vocational nurse license for any  
5 reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice  
6 Act.

7 5. Section 118(b) of the Code provides, in pertinent part, that the expiration  
8 of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during  
9 the period within which the license may be renewed, restored, reissued or reinstated. Under  
10 section 2892.1 of the Code, the Board may renew an expired license at any time within four years  
11 after the expiration.

### 12 STATUTORY PROVISIONS

13 6. Section 2878 of the Code states, in pertinent part:

14 "The Board may suspend or revoke a license issued under this chapter [the  
15 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

16 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

17 (1) Incompetence, or gross negligence in carrying out usual nursing functions.

18 "..."

19 7. California Code of Regulations, Title 16, section 2519, provides:

20 As set forth in Section 2878 of the Code, gross negligence  
21 is deemed unprofessional conduct and is a ground for disciplinary  
22 action. As used in Section 2878 "gross negligence" means a  
23 substantial departure from the standard of care which, under  
24 similar circumstances, would have ordinarily been exercised by a  
25 competent licensed vocational nurse, and which has or could have  
26 resulted in harm to the consumer. An exercise of so slight a degree  
27 of care as to justify the belief that there was a conscious disregard  
28 or indifference for the health, safety, or welfare of the consumer  
shall be considered a substantial departure from the above standard  
of care.

8. California Code of Regulations, Title 16, section 2520, provides:

As set forth in Section 2878 of the Code, incompetence is  
deemed unprofessional conduct and is a ground for disciplinary  
action. As used in Section 2878 "incompetence" means the lack of



1 possession of and the failure to exercise that degree of learning,  
2 skill, care and experience ordinarily possessed and exercised by  
responsible licensed vocational nurses.

3 **COSTS**

4 9. Section 125.3 of the Code provides, in pertinent part, that the Board may  
5 request the administrative law judge to direct a licentiate found to have committed a violation or  
6 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
7 and enforcement of the case.

8 **FACTUAL SUMMARY**

9 10. In 2002, Respondent was working as a Licensed Vocational Nurse at the  
10 Care Center of Rossmoor in Walnut Creek, California.

11 11. On or about 9/12/2002, while she was on duty at the Care Center of  
12 Rossmoor, Respondent failed to follow proper procedures to ascertain whether a nasogastric  
13 (NG) tube had been properly placed in patient C.I.<sup>1/</sup>

14 12. On or about 9/13/2002, Respondent connected patient C.I.'s NG tube to a  
15 feeding tube. Respondent again failed to confirm proper placement of the NG tube prior to  
16 beginning this feeding. The feeding tube had not been placed correctly, feeding into Patient  
17 C.I.'s lung instead of his stomach. Feeding liquid flowed into patient C.I.'s lung at 80 cc per  
18 hour for approximately seven hours.

19 13. Patient C.I. died as a result of this incident.

20 **FIRST CAUSE FOR DISCIPLINE**

21 (Incompetence/Gross Negligence)

22 14. Respondent is subject to disciplinary action under section 2878(a)(1) of  
23 the Code and California Code of Regulations, Title 16, sections 2519 and 2520, in that she acted  
24 with gross negligence and/or incompetence, as set forth above in paragraphs 10 through 13.

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28 1. Patient C.I.'s identity is withheld to protect patient privacy.

1 **SECOND CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct)

3 15. Respondent is subject to disciplinary action under section 2878(a) of the  
4 Code in that she acted unprofessionally, as set forth above in paragraphs 10 through 13.

5 **PRAYER**

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
7 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric  
8 Technicians issue a decision:

9 1. Revoking or suspending Vocational Nurse License Number 193920,  
10 issued to Agnes Mamonee Sumo;

11 2. Ordering Agnes Mamonee Sumo to pay the Board of Vocational Nursing  
12 and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this  
13 case, pursuant to Business and Professions Code section 125.3;

14 3. Taking such other and further action as deemed necessary and proper.

15 DATED: November 30, 2007

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18 TERESA BELLO-JONES, J.D., M.S.N., R.N.

19 Executive Officer

20 Board of Vocational Nursing and Psychiatric Technicians

21 Department of Consumer Affairs

22 State of California

23 Complainant  
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